

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:13CR249
)	
vs.)	ORDER
)	
YOLANDA GUTIERREZ)	
)	
Defendant.)	

This matter is before the court on the motion of defendant Yolanda Gutierrez (Gutierrez) for release from detention (Filing No. 142). Gutierrez has been found guilty of an offense under 18 U.S.C. § 3142(f)(1)(C), i.e., an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Import and Export Act (Filing No. 139). As such, Gutierrez must be detained awaiting the imposition of a sentence unless a judicial officer finds by clear and convincing evidence Gutierrez is not likely to flee. I cannot make such a finding when Gutierrez is facing a minimum ten year sentence, and Gutierrez proposes to be released to an area approximately ten miles from the United States-Mexican border when Gutierrez has made numerous visits to Mexico in the past. Gutierrez's proposed release to the third-party custody of her mother in light of several false representations to Pretrial Services by her mother concerning a proposed release to a Fort Calhoun, Nebraska, residence does not rise to clear and convincing evidence Gutierrez would not flee pending her imprisonment. **See** Filing No. 151 - Sealed. The motion for release (Filing No. 142) is denied.

IT IS SO ORDERED.

DATED this 13th day of December, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge